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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,733	09/13/2000	James S Wilson	004578.1073	7374
45507	7590	11/19/2004	EXAMINER	
BAKER BOTTS LLP 2001 ROSS AVENUE 6TH FLOOR DALLAS, TX 75201			CIRIC, LJILJANA V	
			ART UNIT	PAPER NUMBER
			3753	

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/660,733

Applicant(s)

WILSON ET AL. 

Examiner

Ljiljana (Lil) V. Ciric

Art Unit

3753

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 25 October 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: none.

Claim(s) objected to: none.

Claim(s) rejected: 1,2,4-10,13-18 and 20-24.

Claim(s) withdrawn from consideration: 3,11 and 12.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: See Continuation Sheet

  
Ljiljana (Lil) V. Ciric  
Primary Examiner  
Art Unit: 3753

Continuation of 2. NOTE: The proposed amendment to the claims would result in a change in scope, thus necessitating further consideration and/or search. Also, it is not clear to which preceding element(s) the term "thereto" [i.e., claim 1, line 10; claim 17, line 10; claim 22, line 13], thus introducing indefiniteness into the claims; in lieu of reciting the term "thereto", a direct recitation of the element(s) referred to by the "thereto" is recommended.

Continuation of 5. does NOT place the application in condition for allowance because: the limitations relied upon by applicant for the patentability of claim 22, for example, are NOT recited in the rejected claims.

Continuation of 10. Other: In response to applicant's query as to functional language, the examiner hereby notes that every rejection based on prior art as cited in the previous Office action sets forth how the examiner is applying the reference to the corresponding rejected claims. In fact, applicant's remarks on page 7 of the reply filed on 25 October 2004 admit that "the Office action rejects the apparatus claims, noting that the language which was identified to be functional was met by disclosures in the cited references"; thus, the examiner did NOT ignore the functional language in the apparatus claims..

